

# NEW MEXICO HIGHER EDUCATION DEPARTMENT

SUSANA MARTINEZ  
GOVERNOR



DR. BARBARA DAMRON  
CABINET SECRETARY

**Subject:** Northern New Mexico College  
Capital Project Audit

**Date:** October 1, 2015

**To:** Dr. Barbara Damron, Cabinet Secretary  
New Mexico Higher Education Department

**From:** Scott Eccles, Institutional Auditor  
Gerald Hoehne, Capital Projects Auditor  
New Mexico Higher Education Department

**Through:**   
Dr. Harrison Rommel, Interim Director of Institutional Finance  
New Mexico Higher Education Department

## SECTION I – Background, Methodology, and Project Data

In accordance with State of New Mexico Statutes (Chapters 9 & 21), the New Mexico Higher Education Department's (HED) Institutional Finance Division conducted an audit of Northern New Mexico College's (NNMC) Montoya Building Renovation Project (MBRP). The audit was performed in order to determine the College's compliance with State Procurement Code, and to ensure that project costs reimbursed to-date are allowable, allocable, and adequately supported.

### Project Background

Pursuant to the 2013 “Work New Mexico Act”, NNMC was legislatively authorized to receive proceeds from the sale and issuance of Severance Tax Bonds (STB) in the amount of \$900,000 to “plan, design, construct, renovate, expand, furnish and equip the Joseph M. Montoya building.” NNMC divided the project into four renovation phases which include the following: Bookstore, Boardroom, President’s Office, and Student Services. This appropriation has a reversion date of June 30, 2016. In addition, and as required by statute, the College received \$9,000 which represents the 1% portion of the appropriation designated for Art in Public Places (AIPP).

### Procurement Code Applicability

It is important to understand how State Procurement Code Statutes and State Procurement Code Regulations apply to NNMC and the MBRP bidding and award process. NNMC, as a constitutional school, does not fall under the authority of the State’s General Services Department’s (GSD) “Procurement Code Regulations” as defined in NMAC §1.4.1.2 (4). NNMC is therefore excluded from central purchasing through the state purchasing agent; however, the College is required to adhere to State “Procurement Code Statutes” at NMSA 1978 §§13-1-1 through 13-1-199 (Repl. Pamp. 2012). Historically, Institutions of Higher Education in New Mexico, which includes

constitutional schools, utilize Procurement Code Regulations as the guiding authority for all purchasing activities. These regulations were developed by the State Purchasing Division to support and clarify Procurement Code Statutes. Although Procurement Code Statutes and Procurement Code Regulations are both commonly referred to as the Procurement Code; in accordance with NMSA §13-1-28 and within this report, we will refer to State Procurement Code Statutes as the “State Procurement Code” or “Procurement Code”.

Effective July 1, 2013, and as a result of the passing of Senate Bill (SB) 443, NMSA §13-1-125(A) increased the threshold for “small purchases” to \$60,000 in order to streamline the procurement process by reducing the number of purchases subject to the formal bidding process. Changes applicable to the procurement of contractor services include:

- A direct purchase order can be issued to a contractor for projects under \$60,000 in cost (excluding state and local taxes) based upon the best obtainable price; and,
- Projects exceeding \$60,000 in cost (excluding state and local taxes) require utilization of the request for proposals (RFP) procurement process.

In addition to State Procurement Code, NNMC’s Purchasing Procedures for Construction are as follows:

- A direct purchase order can be issued to a contractor for projects under \$25,000 in cost (excluding state and local taxes) based upon the best obtainable price; and,
- Projects exceeding \$25,000 in cost (excluding state and local taxes) require utilization of the RFP procurement process.

Therefore, based upon NNMC’s Purchasing Procedures being more restrictive than the Procurement Code, the RFP process is required for all construction projects exceeding \$25,000 in cost.

### **Disclosures**

- As documented in NNMC’s fiscal year 2014 audit report, the College received an audit finding for initiating construction and expending bond funds on two capital projects prior to obtaining the required statutory approvals from HED’s Capital Project Committee and the State Board of Finance (SBOF). The MBRP was identified as being one of these projects and in order to avoid redundancy, although mentioned in the summary on page 11 of this report, the finding is not included within the scope of this audit; and,
- It was determined that NNMC constructed a new porch attached to the Montoya Building utilizing building renewal and replacement (BR&R) funds. Although this portion of work was not paid for with STB 13-1913 proceeds, the project is included within the scope of this audit as it was determined that a potential violation of State Procurement Code occurred that is linked to the purview of this audit.

### **Scope & Methodology**

To achieve the objectives, reviews of laws, rules, and regulations applicable to the State’s Institutions of Higher Education that are deemed to be “Constitutionals” were conducted. Reviews were also performed on NNMC’s policies and procedures regarding purchasing, signature authority, and conflicts of interest. Organizational charts were used to understand the College’s operational and reporting structures. Interviews were conducted with NNMC’s Vice President (VP) of Finance, Financial Services Director, Director of Facilities, Senior Financial Analyst, Accountant, Athletics Director, and Executive Administrative Assistant to assemble background

information and to obtain and verify documents and data. Site inspections were performed with HED's Capital Projects Coordinator in order to assess project work completed to-date. In addition, one-hundred percent (100%) of reimbursements submitted to-date by NNMC to the SBOF were tested for compliance.

Documents were also examined which include: Capital Project Transmittal Summary Sheet, Bids and Awards; Purchase Requisitions and Orders, Encumbrances, Project Timelines, Change Orders, Draw Requests, Expenditure Reports, Corporate Ownership Records, Officer's Meeting Minutes, and NNMC's five-year capital projects plan.

In addition, assessments of peer institutions were performed in order to define best practices specific to procurement, signature authorizations, conflicts of interest, and ethics.

### Project Data

The following chart summarizes to-date MBRP financial activity:

<u>Vendor</u>	<u>Project</u>	<u>Proposal Amount</u>	<u>Change Orders</u>	<u>Total Reimbursed to Date/SBOF</u>	<u>Difference</u>
<u>Blue Sky Builders</u>	<u>Bookstore Phase</u>	<u>\$208,721.94</u>	<u>\$54,906.51</u>	<u>\$271,708.97</u>	<u>\$8,080.52</u>
<u>CDW Government</u>	<u>Bookstore Phase</u>	<u>\$1,175.63</u>		<u>\$1,175.63</u>	<u>\$ -</u>
<u>Fat Catalog</u>	<u>Bookstore Phase</u>	<u>\$2,168.56</u>		<u>\$1,795.44</u>	<u>\$(373.12)</u>
<u>Retail Resource</u>	<u>Bookstore Phase</u>	<u>\$10,568.28</u>		<u>\$10,568.28</u>	<u>\$ -</u>
<u>Delancey Street</u>	<u>Bookstore Phase</u>	<u>\$2,415.42</u>		<u>\$1,250.31</u>	<u>\$(1,165.11)</u>
<u>4 Alarm Service</u>	<u>Bookstore Phase</u>	<u>\$2,574.84</u>		<u>\$2,535.36</u>	<u>\$(39.48)</u>
<u>Sign Shop</u>	<u>Bookstore Phase</u>	<u>\$582.79</u>		<u>\$582.79</u>	<u>\$ -</u>
<u>Blue Sky Builders</u>	<u>Boardroom</u>	<u>\$17,824.02</u>		<u>\$17,824.02</u>	<u>\$ -</u>
<u>Sign Shop</u>	<u>Boardroom</u>	<u>\$2,415.93</u>		<u>\$2,415.93</u>	<u>\$ -</u>
<u>Metro 2000</u>	<u>Boardroom</u>	<u>\$2,690.45</u>		<u>\$2,690.45</u>	<u>\$ -</u>
<u>Chacon Builders</u>	<u>Boardroom</u>	<u>\$3,263.75</u>		<u>\$3,263.75</u>	<u>\$ -</u>
<u>Dominguez Carpet</u>	<u>Boardroom</u>	<u>\$14,815.51</u>		<u>\$14,562.76</u>	<u>\$(252.75)</u>
<u>Consolidated Electrical Distribution</u>	<u>Boardroom</u>	<u>\$2,265.56</u>		<u>\$2,265.56</u>	<u>\$ -</u>
<u>Cooperative Educational Services</u>	<u>President's Office</u>	<u>\$57,041.53</u>	<u>\$ 3,241.96</u>	<u>\$59,866.51</u>	<u>\$(416.98)</u>
	<b><u>TOTALS:</u></b>	<b><u>\$328,524.21</u></b>	<b><u>\$58,148.47</u></b>	<b><u>\$392,505.76</u></b>	<b><u>\$5,833.08</u></b>

Porch Project - This project consisted of the addition of a new porch attached to the west side of the Montoya Building. The project was constructed using BR&R funding (see disclosure section on page 2 of report). NNMC solicited and awarded the Porch Project to Blue Sky Builders (BSB) based upon an informal bid of \$24,690. No other quotes were obtained. Project work began in July of 2012 and was completed in August of 2012. No change orders were issued.

Bookstore Phase - This phase consisted of renovations to the Bookstore. NNMC solicited informal bids from BSB, Avanyu Construction Company (Avanyu), and Black Ridge Builders (Black Ridge). BSB was awarded the project based upon the submission of the lowest bid of \$208,722. Construction was initiated August of 2013 and completed November of 2013. Four change orders totaling \$54,906.51 were processed resulting in a final project cost of \$263,628.45. Change orders are as follows:

**Change Order #1:**

- Installation of hollow metal windows and pair of doors in existing television room (\$19,790); and,
- Replacement of ceramic tile including 8x8 logo (\$17,607).

**Change Order #2:**

- Upgrade of Bookstore cabinets (\$2,806);
- Abatement of asbestos in Bookstore (\$7,774); and,
- Retile of Hallway (\$12,209).

**Change Order #3:**

- Replacement of 8x8 logo (\$17,607);
- Television Room (\$19,790);
- Alternate Tax (\$1,066); and,
- Dutch Doors (\$1,734).

**Change Order # 4:**

- Disencumbered \$45,477.76 to correct duplicated items included within Change Orders # 1 and # 3.

Boardroom Phase – This phase consisted of renovations to the Boardroom. Informal bids were solicited and submitted by BSB (\$17,824), Chacon Builders (\$19,120), and Tewa Construction Company (\$36,149). This phase was awarded to BSB based upon submission of the lowest bid. Five additional service contracts/purchase orders were entered into with different vendors for additional work under this phase. Work was initiated in November of 2013 and completed in January of 2014. Final project cost was \$43,022.47.

President's Office Remodel – This phase encompassed replacement of hallway carpet and rotunda tile. As allowed by Procurement Code (13-1-135), NNMC utilized Cooperative Educational Services (CES), a non-profit purchasing cooperative that solicits bids and issues contracts on behalf of members. BSB, who became a statewide “registered bidder” with CES on December 1, 2013, was awarded this phase based upon the submittal of a formal bid in the amount of \$38,872.73. An additional service contract/purchase order was entered into with CES for the acquisition of office furniture. There was one change order processed in the amount of \$3,241.96 for additional ceramic tile in the president’s restroom and the painting of an additional wall in the president’s area. The phase was started March of 2014 and completed May 2014 with a final project cost of \$60,283.49.

Student Services Phase – At the pre-exit meeting held on August 26, 2015, NNMC informed HED that this phase requires the replacement and upgrade of the Heating, Ventilation, and Air Conditioning (HVAC) system along with

renovations to accommodate additional space for offices and student resources. Funding for the HVAC upgrade has become available through newly appropriated bond funds. This new funding, along with the balance of MBRP funds for classroom and office upgrades, will allow the needed renovation to be completed in a single phase. No funds have been expended or reimbursed to-date.

AIPP - No monies have been expended or reimbursed to-date.

#### MBRP Timeline

	July 13	Aug 13	Sept 13	Oct 13	Nov 13	Dec 13	Jan 14	Feb 14	Mrch14	Apr14	May 14	June 14
AIPP												
Bookstore		X	X	X	X							
Boardroom					X	X	X					
President's Office										X	X	X
Student Services												

## SECTION II – Audit Findings

### Finding No. 1 – Procurement Code Violation (Lack of Competitive Bidding Process)

#### Condition

Reviews of project documents revealed NNMC solicited informal bids for the MBRP Bookstore Phase from three area general contractors instead of utilizing the competitive sealed bidding process required by both State Procurement Code and NNMC Purchasing Procedures. Bids were subsequently submitted by two of the three firms with the third deciding not to bid based upon other commitments. The College subsequently awarded the phase to BSB based upon the best obtainable price and subsequently entered into agreement on July 15, 2013 in the amount of \$208,722.

Contractor	BSB	Avanyu	Black Ridge
Bid Date	July 9, 2013	July 11, 2013	No Bid
Bid Amount	\$193, 911	\$207,531	Not Applicable
Including GRT	\$208,722	\$210,000	Not Applicable

State Procurement Code requires awards be made through the competitive sealed bidding process for all construction projects exceeding \$60,000 in cost. In addition, it stipulates that a RFP procurement process be utilized in which projects are awarded based upon the requirements set forth and advertised in an invitation for bids. Evaluation criteria utilized for consideration may include weighted factors other than cost; such as project knowledge, skills, experience and prior performance.

In addition, NNMC's Purchasing Procedures have a more restrictive threshold. All projects exceeding \$25,000 in cost must be awarded based upon the RFP process.

Additional reviews revealed the awarded firm, BSB, was known by College officials to be partially owned by an employee of the college.

## Criteria

- According to NNMC Purchasing Procedures updated January 12, 2015: 7. Purchasing Policy, Regulations for Construction Include the Following: Construction over \$25,000, "Requestor must work with the Purchasing Department to obtain formal bids. Purchase Requisitions must be submitted for advertising in at least two general area newspapers. Formal bids must be submitted by the bidder to the Purchasing Department. Once an internal committee has been established, the bids are released to the committee for evaluation and selection."
- According to NMSA §13-1-105: "Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose." "The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluations that are not set forth in the invitation for bids";
- NMSA §13-1-107: Competitive sealed bids; bid opening, states, "Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid and each bid item, if appropriate, and such other relevant information as may be specified by the state purchasing agent or central purchasing office, together with the name of each bidder, shall be recorded, and the record and each bid shall be open to public inspection."; and,
- NMSA §13-1-117: Competitive sealed proposals; award, "The award shall be made to the responsible offeror or offerors whose proposal is most advantageous to the state agency or a local public body, taking into consideration the evaluation factors set forth in the request for proposals."

## Effects

- Competitive sealed bid procurement process bypassed;
- NNMC in violation of State Procurement Code;
- NNMC in non-compliance with its own Purchasing Procedures;
- Procurement process lacks quality and integrity;
- Value of public funds potentially not maximized;
- Offers the appearance of malfeasance; and,
- Increased HED scrutiny over NNMC capital outlay procurement processes.

## Cause

The College previously eliminated their Capital Projects Director's position due to financial hardship and instead tasked five NNMC staff members with "managing all capital projects, capital budget monitoring and reporting, and any required interactions or presentations with the NMHED and State Board of Finance." The five staff members included "the Vice President for Finance and Administration, the Athletics Director, the Finance Director, the General Services Director and the Grants Accountant."

## Recommendations

- The College's Purchasing Agent, who was hired October 1, 2013, ensures all procurement activities at NNMC are performed in compliance with State Procurement Code and NNMC Purchasing Procedures; and,

- The College's Institutional Purchasing Policy and Purchasing Procedures specific to contractor procurement are broad in nature therefore lacking the detail required to ensure compliance with the State's complex Procurement Code. We therefore recommend they be rewritten, as it can no longer be assured based upon this audit finding that the current policies and procedures provide the level of controls necessary to ensure compliance.

### **Views of Responsible Officials and Management's Planned Corrective Actions**

Although written quotes were obtained for the construction project associated with this finding, at the time, it was believed that the contracted vendor was a qualified Cooperative Educational Services (CES) participant. Under normal circumstances, use of eligible CES vendors fulfills all state procurement requirements for the competitive sealed bidding process. Unfortunately, the College misinterpreted the CES status of the contracted vendor and agrees that we did not fully adhere to all procurement regulations.

The College has since 1) Hired a certified Purchasing Agent; 2) Instituted procurement training for faculty and staff coinciding with the beginning of the Fall and Spring Semesters that includes the various levels of responsibility pertaining to the bidding process as well as online access to instruction and procedures; and 3) Institutional procurement policies are currently being reviewed by the BOR in preparation for final adoption in January 2016.

### **Finding No. 2 – Procurement Code Violation (Unlawful Employee Participation)**

#### **Condition**

Review of project records revealed that the College's Executive Administrative Assistant was instructed to sign the two procurement documents specific to BSB. The Administrative Assistant authorized a purchase requisition for the Porch Project (\$24,690) and approved a contract (\$17,824) for the MBRP Boardroom Phase. Subsequent interviews were performed and it was determined that BSB is partially owned (10%) by the Administrative Assistant's spouse (mentioned in finding number one), who is also an employee of NNMC and an Officer (VP) of BSB.

As a result of the unlawful procurement participation and in order to ascertain whether: (a) A violation of NMSA §13-1-193 regarding prohibited contemporaneous employment occurred; and, (b) Whether a violation of the Governmental Conduct Act (NMSA 1978 §10-16-4.3 (Repl. Pamp. 2013)) concerning prohibited employment occurred; a formal response was requested from NNMC officials in order to determine whether the Administrative Assistant was employed by BSB during this time period. A reply was received on June 1, 2015 in which it was stated that the Assistant was employed by BSB from January through May of 2008, but has not been employed by the firm since that time.

#### **Criteria**

- According to NMSA §13-1-190, Unlawful Employee Participation Prohibited (A): "it is unlawful for any state agency or local public body employee, as defined in the Procurement Code {Sections 13-1-28 through 13-1-199 NMSA 1978}, to participate directly or indirectly in a procurement when the employee knows that the employee or any member of the employee's immediate family has a financial interest in the business seeking or obtaining a contract."
- NMSA §13-1-53: "Definition: direct or indirect participation, "Direct or indirect participation" means involvement through decision, approval, disapproval, recommendation, formulation of any part of a purchase request, influencing the content of any specification, investigations, auditing or the rendering of advice.";

- NMSA §13-1-57: “Definition: financial interest, financial interest means: (A) holding a position in a business as officer, director, trustee or partner or holding any position in management; or (B) ownership of more than five percent interest in a business.”; and,
- NMSA §13-1-62: “Definition: immediate family, “Immediate family” means a spouse, children, parents, brothers and sisters.”

### **Effects**

- NNMC in violation of Procurement Code;
- Procurement transactions authorized and approved by a non-designated staff member; and,
- Offers the appearance of malfeasance.

### **Cause**

Although aware that the Administrative Assistant's spouse was partial owner of BSB, a fiscal official of the College stated that on occasion, the Assistant has been instructed to sign documents in the official's absence. It was also stated that this practice has occurred approximately four times over a four-year period.

### **Recommendation**

Although having a staff member exercise authority during temporary absence is an understood and accepted practice, in accordance with NNMC Accountability Policies, the College official in question must exercise better judgement in order to avoid future violations of Procurement Code and the perception of malfeasance.

### **Views of Responsible Officials and Management's Planned Corrective Actions**

The Vice President for Finance and Administration normally signs all contracts and purchase requisitions over \$1,000 for departments under his area of responsibility. In limited circumstances, the Vice President has specifically directed his administrative assistant to sign documents on his behalf in his absence. This practice has only occurred approximately four times over his four-year tenure with NNMC.

The College, in response to the New Mexico Higher Education Department's (NMHED) initial inquiry, assigned signature authorization to Mr. Bernie Padilla, Human Resource Director, or Ms. Henrietta Trujillo, Finance Director, in the absence of the Vice President. The College is currently developing signature authorization protocol and forms for implementation in 2016. This will assist the College in the future transition to electronic signature authorizations.

## **SECTION III – Audit Concerns**

### **Concern No. 1 – Perceived Favoritism**

#### **Condition**

- As noted in finding number one, a firm (BSB) known to be partially owned by an employee of the college was awarded a phase of the MBRP (\$208,722) without the required competitive bidding process; and,
- As noted in finding number two, an employee of the college was instructed to participate in procurement activities involving a firm (BSB) in which the employee's spouse was known to have a financial interest.

A conflict of interest arises when a faculty or staff member is in a position to influence the business, research, or other decisions of the College in relationship to an outside organization in ways that could lead directly or indirectly to financial gain for the faculty or staff member or the family of the faculty or staff member, or give improper advantage to others to the detriment to the College. Favoritism is defined as a display of partiality toward a favored person or group. Although it could be perceived a conflict of interest existed due to the nature of findings one and two, the results of audit work revealed:

- The College did not violate the State's Governmental Public Notice Disclosure Rules when it awarded the Bookstore Phase based upon the employee being a "non-substantial owner" of BSB (less than 20% ownership); and,
- The College did not violate the State's Governmental Conflict of Interest Rules based upon the fact that the employee owner or Administrative Assistant were not in a position or level within the organization to influence procurement activities.

No evidence was obtained during the course of the audit that would substantiate lack of disclosure or conflict of interest violations occurred. However, although minimal, is it possible another contractor, not originally solicited by NNMC, could have submitted a responsive bid lower than that of BSB. Based upon this, the impression of favoritism, although potentially not factual, is notable.

### **Recommendations**

- Although research revealed BSB is a reputable firm known to have completed numerous quality construction projects throughout the state, based upon the principles defined within the State's Governmental Conduct Act, ("full disclosure of real or potential conflicts of interest shall be a guiding principle for determining appropriate conduct"), we recommend NNMC's President meet with College fiscal officials to remind them of their professional responsibilities and duties to ensure full compliance with Procurement Code and NNMC Purchasing Procedures; and,
- Although the Governmental Conduct Act does not prohibit employees from doing business with the College, the Act (NMSA §10-16-4.2) does require employees to disclose in writing all employment engaged by the employee other than employment with the College. Although it was determined that the employee owner of BSB disclosed ownership to College officials (resume) prior to being hired, NNMC does not maintain a formal process that requires staff to report outside employment (on a periodic basis) in order to avoid conflicts of interest, favoritism, ethics violations, and the appearance or potential appearance of malfeasance. We therefore recommend the College's Board of Regents adopts an annual "Employee Conflict of Interest Disclosure Statement" that identifies outside employment of staff, and defines parameters regarding conflict of interests and ethical conduct.

### **Views of Responsible Officials and Management's Planned Corrective Actions**

As noted in the report, the College did not violate the State's Governmental Public Notice Disclosure Rules or the State's Governmental Conflict of Interest Rules. The College does, however, want to ensure that all vendors are afforded an opportunity to submit a bid for consideration. Despite the College's practice of utilizing State Pricing Agreements or CES for all construction projects, obtaining responses from regional vendors is sometimes a challenge. In these situations the perception of favoritism may be unavoidable. For this reason, it has been a

practice of the College to discuss all construction projects at the BOR's monthly Facilities and Finance Committee meetings.

### **Concern #2 – No Formal Signature Authority Designations**

#### **Condition**

As a result of finding number two and the subsequent review performed to define NNMC's signature authority process, it was determined that although the College has the following policies in place that define the responsibilities of individuals who are authorized to process business and administrative transactions, no formal designations have ever been made:

- According to NNMC's Board of Regent's Policies & Procedures, Section 2000, Responsibility and Accountability for College Information and Transactions; (2) Deans, Directors, and Department Heads: "Deans, directors, and department heads define designated individuals in their organizations who are authorized to process business and administrative transactions"; and,
- According to NNMC Accountability Policies: "department heads are responsible for exercising good judgment, upholding ethical standards, and should have internal procedures in place to ensure periodic review of designations and related training."

#### **Recommendation**

The College needs to establish and maintain a current list of staff members who are designated to authorize and/or approve business and fiscal documents. This should also include secondary designees whom are allowed to sign in the absence of primary designees. In addition, it is important to ensure historical records of designations are maintained in the event they are needed for verification purposes. To define best practices, we encourage reviews be conducted on the signature authority processes being utilized by peer institutions.

### **Views of Responsible Officials and Management's Planned Corrective Actions**

The College, as indicated in response to Finding No. 2, assigned signature authority authorization to Mr. Bernie Padilla, Human Resource Director, or Ms. Henrietta Trujillo, Finance Director, in the absence of the Vice President. The College is currently developing signature authorization protocol and forms for implementation in 2016 which will also assist in the future transition to electronic signature authorizations.

### **Concern No. 3 – Multiple Informal Quotes Required**

#### **Condition**

Examination of procurement documents revealed NNMC solicited an informal bid and subsequently awarded the Porch Project to BSB in the amount of \$24,690. NNMC Purchasing Procedures allow for a direct purchase order to be issued to a contractor based upon the best obtainable price.

#### **Recommendation**

Although the new porch is not considered to be a major project (\$24,690) and the cost appears to be reasonable in nature, an employee does has a financial interest in BSB, and in accordance with NNMC Purchasing Procedures for

Construction under \$25,000, we suggest the College obtains additional quote(s) to document that the best price is obtained and to avoid any appearance of malfeasance.

#### **Views of Responsible Officials and Management's Planned Corrective Actions**

The College, as a matter of practice, attempts to utilize State Pricing Agreements or CES for all construction projects. Under normal circumstances, use of either entity fulfills all state procurement requirements for the competitive sealed bidding process so long as a vendor is on their approved vendor list. In order to maximize available funding the College will attempt to obtain multiple quotes to document that the best price is obtained.

#### **Concern No. 4 – Verification of MBRP Balance**

##### **Condition**

Based upon the project accounting documents provided to auditors, the remaining balance available to NNMC is misstated by \$5,833 (see page three of this report), thereby decreasing the remaining funds available for the Student Services Phase by that same amount.

##### **Recommendation**

We recommend NNMC fiscal staff perform a forensic review of all to-date MBRP accounting transactions and subsequently meet with HED and SBOF staff for review and disposition.

#### **Views of Responsible Officials and Management's Planned Corrective Actions**

The College Finance Department is currently auditing all requests for reimbursement associated with the Montoya Building Renovation Project to ensure that the requests indeed balance to the invoices paid. The audit will be completed by Thursday, October 15, 2015, and the results will be forwarded to NMHED.

### **SECTION IV – Summary of Findings, Conclusions and Comments**

#### **Summary of MBRP Findings**

- NNMC expended bond funds prior to obtaining the required HED and SBOF approvals;
- Awarded a contract to a firm known to be partially owned by an employee of the College without utilizing the required formal bidding process; and,
- Instructed an employee to participate in procurement activities involving a firm known to be partially owned by the employee's spouse.

#### **Conclusions**

**Procurement Objective** - The facts reveal NNMC's policies specific to contractor procurement are inadequate in content and were bypassed as noted in findings one and two. In addition, the lack of a capital projects staff member or consultant who has the level of technical expertise required to manage major projects with multiple phases further exacerbated an already weak control system.

**Allowability of Costs Objective** - Regarding the objective to determine whether bond reimbursements made to-date are allowable, allocable, and adequately supported, the results of field work performed reveal the College has substantially complied with applicable requirements.

### **Comments**

NNMC officials need to ensure that all procurements are conducted in a fair and impartial manner with avoidance of any impropriety or appearance of impropriety, and that all qualified vendors have access to public business.

The State Procurement Code was developed to provide fair and equitable treatment of all persons involved in public procurement, to maximize the purchasing value of public funds and to provide safeguards for maintaining a procurement system of quality and integrity.

NNMC personnel should clearly understand and demonstrate certain competencies in this area on a daily basis and should be well informed about conflicts of interest. Management must conduct itself in a manner that justifies the confidence placed in them by taxpayers, at all times maintaining the integrity and discharging ethically the high level of responsibilities. Nothing undermines confidence more than a real or perceived violation of public trust.

cc: Andrew Jacobson, HED Deputy Cabinet Secretary  
Michelle Casias, HED Director of Operations  
Ron James, HED Capital Projects Coordinator  
Timothy Keller, State Auditor  
Tom Clifford, DFA Cabinet Secretary  
Stephanie Schardin-Clarke, DFA Deputy Cabinet Secretary  
Duffy Rodriguez, DFA Deputy Cabinet Secretary  
Debbie Romero, DFA Capital Outlay Bureau Chief  
Jeff Primm, SBOF Deputy Director  
Latishia Ortiz, DFA State Budget Executive Analyst  
David Abbey, LFC Director  
Linda Kehoe, LFC Principal Analyst  
Travis Dulany, LFC Fiscal Analyst  
Rosario "Chayo" Garcia, NNMC Board President  
Nancy "Rusty" Barcelo, NNMC President  
Domingo Sanchez, NNMC VP of Finance  
Andrew Romero, NNMC Facilities Director  
Henrietta Trujillo, NNMC Financial Services Director  
Alexandra Williams, NNMC Senior Financial Analyst  
Tammy Salter, NNMC Purchasing Agent